



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

November 22, 2024

By ECF

Hon. Valerie Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *American Civil Liberties Union Foundation v. U.S. Immigration and Customs Enforcement*, No. 24 Civ. 7183 (VEC)

Dear Judge Caproni:

This Office represents Defendant U.S. Immigration and Customs Enforcement (“ICE”) in the above-captioned action. Plaintiff American Civil Liberties Union Foundation (“ACLU”) brings suit pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The parties submit a joint status update, in accordance with the Court’s order of November 14, 2024, ECF No. 22.

On November 14, 2024, ICE made its first production to Plaintiff of responsive and non-exempt records, which included records from ICE’s Office of Acquisition Management that are responsive to Part 2 of Plaintiff’s first FOIA request, 2024-ICFO-50888. ICE processed 442 pages of potentially responsive records. Of these 442 pages, ICE produced 222 pages to Plaintiff, which were withheld in part pursuant to FOIA Exemptions (b)(6), (b)(7)(C), and (b)(7)(E); determined that 107 pages were duplicates; and sent 74 pages to a third party for a submitter’s notice. Additionally, 39 pages were referred to the U.S. Fish and Wildlife Service for a direct response to Plaintiff.

For its next production of responsive, non-exempt records, to be made on or before December 15, 2024, ICE is processing any additional records potentially responsive to Plaintiff’s first FOIA request, 2024-ICFO-50888. Specifically, ICE will process records from a search of custodian William Burger for responses to RFI Notice ID Number 2024ICEMULTISTATE. To the extent the number of records processed does not exceed 500 pages, ICE will process records potentially responsive to Plaintiff’s second FOIA request, 2024-ICFO-54792. Specifically, ICE will process records from a search of custodian John Cappello for responses to RFI Notice ID Number ICEMULTISTATE01.¹

¹ ICE initially agreed to a records search by John Kurtz and William Burger, for responses to RFI Notice ID Number 2024ICEMULTISTATE, and to a further records search by Natasha

Following the mid-December production, ICE will continue processing records at a rate of 500 pages per month and produce responsive, non-exempt records to Plaintiff consistent with Sections 1.c and 1.d of the parties' November 13, 2024, submission, ECF No. 21. Barring any unforeseen hurdles in processing or producing records, ICE anticipates completing its processing of potentially responsive records and production of responsive, non-exempt records on or before January 16, 2025.

The parties will provide a further status update to the Court on or before December 23, 2024. We thank the Court for its consideration.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for Defendant

By: /s/ Jessica F. Rosenbaum
JESSICA F. ROSENBAUM
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2777
E-mail: jessica.rosenbaum@usdoj.gov

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
Attorney for Plaintiff

By: /s/ Eunice H. Cho
EUNICE H. CHO*
Senior Staff Attorney
American Civil Liberties Union
National Prison Project
915 15th Street NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 548-6616
Email: echo@aclu.org

*admitted *pro hac vice*

Nguyen and John Cappello, for responses to RFI Notice ID Number ICEMULTISTATE01. ICE has since determined that the searches by Kurtz and Burger would be duplicative of one another, as those individuals have access to the same folders and file systems for the relevant RFI responses. The searches by Nguyen and Cappello would be similarly duplicative. Accordingly, ICE will process records from a search of custodian William Burger for responses to RFI Notice ID Number 2024ICEMULTISTATE and from a search of custodian John Cappello for responses to RFI Notice ID Number ICEMULTISTATE01.